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 Attorney For Petitioner

## IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

## IN THE ARIZONA TAX COURT

GINA M. BAYS,

Plaintiff,

and

COCHISE COUNTY,

Defendant.

**NO. ST2016-000080**RESPONSE TO MOTION FOR  
SUMMARY JUDGMENT  
(Rule 56, ARCP)Assigned to Commissioner  
Michael L. Barth

Comes now the Plaintiff, GINA M. BAYS, and responds to the Motion For Summary Judgment and states that the Defendant's Motion is untimely and should be dismissed pursuant to Rule 56(b)(3), ARCP, which states: "*Filing Deadline*. A summary judgment motion may not be filed later than the dispositive motion deadline set by the court or local rule, or absent such a deadline, **90 days before the date set for trial.**" The Motion was filed on May 17, 2017. The trial date is May 23, 2017. Therefore, the Motion should be summarily dismissed as being untimely.

Additionally, the Defendant raises the same issue in its Summary Judgment Motion that was raised in the Motion to Dismiss, ie: "This Court not having jurisdiction to consider the sales price." In order to support the Motion for Summary Judgment, the Defendant provides essentially the same relevant facts contained in the Motion to Dismiss. The Court denied the Motion to Dismiss. Therefore, this issue is moot. The Motion to Dismiss technically should be considered a Motion for Summary Judgment on the issue of "sales price" and DENIED based on the same reasoning in the motion to dismiss. *Max of Switz., Inc. v. Allright Corp. of Del.*, 187 Ariz. 496, 498, 930 P.2d 1010, 1012 (App.1997).

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Additionally, Defendant's position about the inability of this Court to consider the sales price is not supported by the statutes or the case law. This response is supported by the attached memorandum of points and authorities.

**DATED** this 19<sup>th</sup> day of May, 2017.

**BAYS LAW, PC**

By:

P. RANDALL BAYS  
Attorney for Plaintiff

Copies of the foregoing served this  
day of May, 2017, to:

ELDA E ORDUNO  
Civil Deputy County Attorney  
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